

BEFORE THE ARIZONA CORPORATION COMMISSION

ROBERT "BOB" BURNS - Chairman
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON
LEA MARQUEZ PETERSON

IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR
A HEARING TO DETERMINE THE FAIR
VALUE OF THE UTILITY PROPERTY OF THE
COMPANY FOR RATEMAKING PURPOSES,
TO FIX A JUST AND REASONABLE RATE OF
RETURN THERON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.

Docket No. E-01345A-19-0236

Filed: May 13, 2020

AARP MOTION REQUESTING THAT
ARIZONA PUBLIC SERVICE COMPANY
BE ORDERED TO FILE SUPPLEMENTAL TESTIMONY
REGARDING IMPACTS OF THE COVID-19 CRISIS

COMES NOW intervenor **AARP**, pursuant to Arizona Revised Statutes § 40-202, 40-203, and 40-241, as well as Rules 14-3-107 and 14-3-109(M) of the Arizona Administrative Code, by and through its attorneys and representatives, respectfully moves the Arizona Corporation Commission ("Commission") require the applicant utility Arizona Public Service Company ("Company" or "APS") to provide supplemental direct testimony regarding the changes that have occurred in to its revenues, expenses, customer energy usage, and other information relevant to the impacts of the COVID-19 pandemic and resulting economic downturn. In support thereof, AARP states as follows:

Commission Powers

1. Arizona law grants the Commission plenary power over the rates and services of the utilities that it regulates.

Article 15, Section 3 of the Arizona Constitution states:

The corporation commission **shall have full power** to, and shall, prescribe just and reasonable classifications to be used and just and reasonable rates and charges to be made and collected, by public service corporations within the state for service rendered therein, . . . and make and enforce reasonable rules, regulations, and orders for the convenience, comfort, and safety, and the preservation of the health, of the employees and patrons of such corporations . . .¹

2. Chapter 40 of Arizona's revised state statutes further bolsters the Commission's broad power to take action to regulate utility rates in order to protect the public interest:

40-202(A). The commission may supervise and regulate every public service corporation in the state **and do all things**, whether specifically designated in this title or in addition thereto, necessary and convenient in the exercise of that power and jurisdiction.²

. . .

40-203. When the commission finds that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded or collected by any public service corporation for any service, product or commodity, or in connection therewith, or that the rules, regulations, practices or contracts, **are unjust, discriminatory or preferential, illegal or insufficient, the commission shall determine and prescribe them by order**, as provided in this title.³

. . .

40-241(A). The commission, each commissioner and person employed by the commission may, at any time, inspect the accounts, books, papers and documents of any public service corporation, and any of such persons who are authorized to

¹ Arizona Constitution, Article 15, Section 3.

² A.R.S. 40-202(A). [Emphasis added.]

³ A.R.S. 40-203. [Emphasis added.]

administer oaths may examine under oath any officer, agent or employee of such corporation in relation to the business and affairs of the corporation.

. . .

40-241 (C). A written record of such testimony or statement given under oath shall be made and filed with the commission.⁴

Therefore, the law grants the Commission the power to respond to the current pandemic and resulting economic emergency by reviewing essential utility rates to ensure that the public is being protected and that those rates are no higher than is necessary, and to take swift action *whenever*⁵ it finds that those rates are no longer just and reasonable. These Commission powers are even greater in the context of a general rate case, such as the instant docket.

AARP is not asking that the Commission lower rates without sufficient new evidence. This motion merely asks that the Commission invoke its broad regulatory powers to require that APS file supplemental testimony in this rate case regarding the dramatic changes that have occurred since it has filed direct testimony with the electric rate Application that initiated this proceeding—way back in November 2019. However, with updated rate case testimony that is relevant to the post-COVID-19 economy, the Commission will have the evidence it needs to respond and protect the public from rates that may have become too high for the current time and unaffordable for many APS customers.

COVID-19 Health Crisis and Resulting Economic Emergency in Arizona

3. There is no question that dramatic changes have occurred in the world, and throughout Arizona. The Commission recognized that this is a serious crisis when it initiated

⁴ A.R.S. 40-241(A) and (C). [Emphasis added.]

⁵ A.R.S. 40-203.

a docket to review utility preparedness plans⁶, quoting a March 18, 2020 statement from the National Association of Regulatory Utility Commissioners (NARUC) President Brandon Presley:

As every American knows, we are in the grips of a serious pandemic that has upended many of our day-to-day lives. This is a challenging time for all of us: layoffs have occurred, schools in many districts have closed, local and national economies are suffering, stores are trying to manage their inventories--and individuals have been infected by the virus.⁷

Governor Doug Ducey has declared a public health emergency due to COVID-19, and has received a federal Major Disaster declaration for the state.⁸ So far Arizona has suffered over 536 deaths related to the pandemic.⁹

Need for Supplemental Direct Testimony

4. As a result of this pandemic, dramatic changes have no doubt occurred in the APS service territory, *after* the utility filed its direct testimony in this ongoing rate case, rendering much of the utility's filed testimony in this case irrelevant to the present time and meaningless to the world that APS customers will be living in the coming years. These changes include a drop in interest rates, market indicators and other changes in the financial marketplace¹⁰, significant changes and shifts in usage¹¹ and a sharp drop in electric

⁶ Docket E-01345A-20-0080, Application issued April 17, 2020.

⁷ *Id.*, p. 1.

⁸ *Id.*, p. 2.

⁹ <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php>

¹⁰ See, <https://www.washingtonpost.com/opinions/2020/03/19/this-recession-is-going-be-bad-really-bad/>; and see, <https://www.cnn.com/2020/03/19/investing/premarket-stocks/index.html>.

¹¹ See "Q1 2020 Pinnacle West Capital Corp Earnings Call", May 8, 2020.

demand¹², along with a surge in unemployment¹³ and other impacts squeezing the ability of many households to pay for their monthly utility bills. The Commission and the parties to this rate case deserve to examine evidence of these changes—*sooner rather than later*—in order to determine if such changes have an impact on what APS customers should be paying in electric rates, surcharges and other electric rate mechanisms.

5. It is also reasonable to assume that electric usage patterns have changed significantly in the past few weeks of the pandemic, and will continue to be very different from past usage patterns, with usage reductions from offices and large industries and with higher residential household energy usage.

6. Much of APS' previously filed direct testimony is now stale, if not irrelevant, to the future time period for which new rates will be in effect. The current "new normal" is more likely to reflect the time period that new rates will be in effect, than the assumptions made back in November 2019. The dramatic societal and economic changes, brought about by an unprecedented pandemic, have been so severe that AARP believes that the best course of action in this rate case would be to have the record *updated* to provide the Commission with testimony and exhibits that would more accurately reflect the period of time for which new electric rates are going to be in effect. This motion is predicated upon the need to consider

¹² See, <https://www.utilitydive.com/news/utilities-are-beginning-to-see-the-load-impacts-of-covid-19-as-economic-sh/574632/> ("In the near term, utilities will likely see some reduced sales volumes as major sporting events, concerts and businesses scale back drastically, compounded even further by social distancing requirements being mandated or recommended by federal and local governments across North America," S&P said in a March 19 report.")

¹³ "Arizona still struggling to process unemployment claims", Associated Press, May 8, 2020, (The Arizona Department of Economic Security is processing nearly 514,000 unemployment claims for assistance since March, but due to a processing backlog, only 283,000 people were receiving the benefits).

the economic impact of COVID-19 upon the national¹⁴ and Arizona economy¹⁵, ratepayers' personal finances, bond markets, stock markets and other key economic sectors and indicators, in order to be able to rely upon competent and substantial evidence in this matter, as well as to ensure that the public interest is well served by the ultimate decisions made in this rate case.

7. The record can and should be updated to include refreshed calculations and projections that underly APS' proposed revenue requirement (i.e., projections of an inflation rate, calculations underlying a proposed ROE, calculations/projections of forward-looking commodity prices and sales, and other elements of a revenue requirement). At the time this rate case was filed by APS last November, there was no way to predict that the current pandemic would occur, and in order to ensure just and reasonable electric rates, AARP submits that the record must be supplemented with the best information available regarding all dramatic changes in revenues, expenses or income.

8. AARP believes that many more APS consumers are suffering financially now from the current economic impacts of the COVID-19 crisis and that those consumers deserve rate relief as soon as possible. The Commission has the clear authority to revisit its APS' rates and rate plans based upon the current emergency situation, and it should act as quickly as possible to help customers make it through the COVID-19 lockdown period. The ability to provide that relief starts with collecting the best and most current information available. The review of APS electric rates and rate plans should be thorough, with intent

¹⁴ See Associated Press News, "Economists expect worst year since Great Depression", April 14, 2020.

¹⁵ For Arizona-specific unemployment numbers, see:

<https://www.usatoday.com/story/money/2020/04/14/coronavirus-unemployment-claims-caused-covid-19-crisis-state/5130034002/> ["Unemployment claims since mid-March: • Unemployment claims since mid-March: 250,477 (7.1% of labor force); Most recent week's unemployment claims (March 29 – April 4): 132,189 (16th highest state); Increase in weekly claims from one year ago: 127,160 (2,528.5%)].

of finding any possible savings for captive customers. Electricity is an essential service and the public can no longer afford to pay for any extras in their energy regulated rates.

9. Importantly, other parties deserve to review the testimony of any new changes to revenues, expenses or income, as well as changes in electric usage, in testimony early enough to respond in a meaningful way, and to have reasonable opportunities to test any utility estimates and projections, rather than have that information provided at the last minute before the rate case hearing. It would not be procedurally fair to the other parties to have APS providing radically different information regarding its revenue requirement and rate design for the first time in its pre-filed rebuttal testimony. The public and the other parties deserve better notice of the factors that have changed.

Fortunately, the delay that has already been granted in this rate case gives APS the time to prepare and file supplemental testimony, and sufficient opportunity for the Commission and the other parties to review supplemental evidence of these dramatic changes. Thus, the utility should be given a deadline to update and supplement its direct filing in this case, and then the Staff, RUCO, and intervening parties should be given the opportunity to conduct reasonable discovery and to file responsive testimony to that updated testimony.

WHEREFORE, AARP respectfully requests that the Commission modify the procedural schedule in this proceeding to:

A. Require the APS to file supplemental direct testimony regarding the changes that have occurred in its revenues, expenses, customer energy usage, and supply all other information relevant to the impacts of the COVID-19 pandemic and resulting economic downturn, and

B. Grant all other parties to this proceeding sufficient opportunity to conduct discovery and to file responsive testimony to the supplemental direct testimony of the utility, prior to the scheduled evidentiary hearing.

Respectfully submitted,

By: /s/ John B. Coffman

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Dated this 13th day of May, 2020.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was e-filed through the ACC Portal and a copy was served on each person on the attached service list according to their preferred method as set forth.

By: /s/ John B. Coffman

The ORIGINAL of this document was electronically filed through the Commission's e-Docket system on May 13, 2020.

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